"tickers." *National Tel. News Co.* v. *W. U. Tel. Co.* (U. S., C. C. A., 1902), Chicago Legal News for Nov. 1.

The plaintiff's contention in the principal case that the quotations of the Chicago Board of Trade are so affected by public interest that they must be furnished to all who are willing to comply with the rules of the Board was properly denied. *Met. G. & S. Exch.* v. *Chi. Bd. of T.* (1883) 15 Fed. 847; *Bryant* v. *Western U. T. Co.* (1883) 17 Fed. 825. But see note to latter, and *N. Y. & Chi. G. & S. Exch.* v. *Chi. B. of T.* (1889) 127 Ill. 153. Public control extends only to businesses affected by public interest. This was not such a business; for this corporation enjoyed no more protection or privilege from the State than any other citizen. *Wilson* v. *Com. Tel. Co.* (1888) 3 N. Y. Supp. 633.

The most satisfactory remedy open to the owner of such property, when his rights have been violated, is in equity. If the owner is a grain or stock exchange, the usual preliminary defense is the assertion that the plaintiff runs a "bucket-shop" or gambling business in violation of law and that this deprives him of all rights in equity, since his own hands are not clean. Even if the plaintiff admits a general right in the public to his quotations, but denies them to the defendant on the ground that the latter conducts a "bucket-shop," the relevancy of this defense appears doubtful. If the plaintiff chooses to stand on his general rights in private property, such a defense would be defeated by the rule in equity that only misconduct in connection with the matter in litigation is relevant. 1 Pommeroy, Equity Jur. § 400. In the discussion of the principal case this point may be omitted, since the mere assertion that the Chicago Board of Trade is a "bucket-shop" cannot overcome the presumption created by its rules against gambling, and by the vast amount of unquestionably legitimate business transacted on its floor. But the testimony as to the alleged gambling, which was given in the somewhat similar case of the *Chi. Bd. of T.* v. *O'Dell Com. Co.* (1902) 115 Fed. 574, should make interesting reading for those charged with the enforcement of law in Illinois.

THE JURISDICTION OF EQUITY OVER CRIMINAL PROCEEDINGS.—The fact that the jurisdiction of a court of equity is exclusively civil is due partly to the manner of its establishment and in part to the complexion of English jurisprudence at the time when the early chancellors first began to issue writs under the great seal of the king and to try causes. To the Court of King's Bench the king had already allotted a supreme original jurisdiction formerly exercised by the aula regis or court of the king. Crompton King's Bench and Common Pleas, Int., p. xxvii. The jurisdiction of a court of equity consisted of that portion of the king's prerogative which he had not delegated to his judges by writ. Langdell's Summary of Equity Pleading, p. 28. When, therefore, a court of equity was asked to enjoin a criminal proceeding, it was confronted with a peculiar situation. By a fiction of the law the king was deemed to be so much a party to a criminal cause that a non-suit could not be entered, but the prosecutor must enter a nolle prosequi, 1 Bl. Com. 269, 270. It was but natural that the result should be reached that equity would not interfere where the petition

amounted in substance to a prayer that the king's chancellor frustrate the operation of the king's justice. It is true that at one time in the history of English law the chancellors were vested with criminal jurisdiction. This, however, was the result of the inability or actual unwillingness of the magistrates to protect against the oppression of the feudal barons, and was statutory in its origin, 4 Hen. VII. c. 12 sec. 2. Spence Equity Jurisdiction, Vol. I. p. 343 and notes.

So in the great majority of cases it has been held that a court of equity would not enjoin a criminal proceeding. *Kerr* v. *Corporation of Preston* (1876) L. R. 6 Ch. Div. 466; *Saull* v. *Browne* (1874) 10 Chanc. App. 64. *Crighton* v. *Dahmer* (1893) 70 Miss. 602; *Davis* v. *American Society, etc.* (1878) 75 N. Y. 362. It remains to consider those cases in which a court of equity has granted an injunction, and, if possible, to reconcile them with the principles above referred to. In the early case of *York* v. *Pilkington* (1742) 2 Atkyns, 302, the question was whether the defendant had a right of fishery. After bringing his bill, the plaintiff had defendant indicted for the same offense alleged to have been committed in the petition. Chancellor HARDWICKE granted an order on a motion pendente lite to restrain the relators. It will be seen that here the Court of Chancery was acting with reference to parties already before it by order only in reference to a criminal proceeding where the same state of facts were involved. Lord HARDWICKE in a later case, *Montague* v. *Dudman* (1751), 2 Ves. Sr., 396, refused to follow the decision rendered nine years before, and, following the general rule, denied the injunction.

In the case of *Manhattan Iron Works* v. *French*, (1882) 12 Abb. N. C., 446, the plaintiff sought to enjoin arrests under a Sunday law pending the determination of its constitutionality, alleging that otherwise his business would be ruined and his property irreparably damaged. The court granted the injunction. There was no question of fact involved and the court of equity was not called upon to determine the guilt or innocence of a party to a criminal proceeding. They are powerless in the latter event to convict or acquit, and will not entertain the bill. *Davis* v. *Society, supra.* In accord with the case of *Manhattan Iron Works* v. *French* are *Barlow* v. *Vestry*, (1883) 48 Law Times Rep. N. S. 348, and *Wood* v. *City of Brooklyn* (1852) 14 Barb. 425.

The Federal courts have, in cases where property was only incidentally affected, refused to enjoin prosecutions and left the petitioner to his legal remedy. *Suess* v. *Noble* (1887) 31 Fed. 855; *Helmsley* v. *Myers* (1891) 45 Fed. 283, overruling *Bottling Co.* v. *Welch* (1890) 42 Fed. 561; *Hackrader* v. *Wadley* (1898) 172 U. S. 148. In a recent case *Davis & Farnum Mfg. Co.* v. *Los Angeles* (1902) 115 Fed. 537, complainant filed its bill to enjoin threatened criminal prosecutions under a city ordinance alleged to be invalid. It was contended that inasmuch as property rights were affected, the court should interfere by injunction. The court, however, refused to do so, saying that if there were such jurisdiction as that for which the complainant contended there would be presented the remarkable spectacle of courts of equity, State and Federal, exercising supervisory power over a not inconsiderable part of the criminal laws of the country. This objection is hardly valid for, as pointed out in *Davis* v. *Society, supra,* a court of equity cannot try an issue of fact as

to the guilt or innocence of a man, and hence its jurisdiction would be limited practically to the determination of the validity of penal statutes, the enforcement of which work irreparable damage to property. The fact that a threatened injury to property amounts also to a crime does not prevent courts of equity from enjoining such injury. *Spinning Co.* v. *Riley* (1868) L. R. 6 Eq. 551. Historical considerations aside, there would seem to be no more reason for refusing protection to property when the injury threatened is to be accomplished by criminal prosecutions under an invalid statute. *Manhattan Iron Works* v. *French, supra.* Of course the fact that property rights are only incidentally affected is not sufficient. *Moses* v. *Mayor* (1875) 52 Ala. 198. The petitioner must make out a clear case for equitable jurisdiction in order to secure relief. *Boloph* v. *Lyman,* (1896) 6 App. Div. 271.

THE RIGHT TO DO BUSINESS, AS AFFECTED BY DECISIONS UPON THE RIGHT TO STRIKE —Two recent decisions are of interest affecting, as they do, the triple relation of employer, employee and outsider, and the broader relation of the trader, his business and the competitor. *Frank* v. *Herold* (N. J. 1902) 52 At. 152; *U. S. ex rel. Guaranty Trust Co.* v. *Haggerty* (C. C. W. Va. 1902) 116 Fed. 510.

A strike case, on the civil side of the court, arises in one of two ways. The workmen, together with officers of their union, who may or may not also be workmen, threaten their employer with a strike unless he discharges a certain man. If he does discharge him the man sues the persons who thus caused his discharge. This was the case in *Allen* v. *Flood* (1898) A. C. 1. Or if he keeps the man despite the threat, and the threat is fulfilled, or if for any other cause a strike is declared, the employer sues to restrain the strikers from deterring other workmen from taking their places, or from driving off the plaintiff's customers, or for damages for such things having been done. Of this nature are *Frank* v. *Herold* and *U. S. ex rel.* v. *Haggerty, supra,* and also *Quinn* v. *Leatham* (1901) A. C. 495, discussed in 2 COLUMBIA LAW REVIEW 37.

In any such case the first inquiry is, by what right does the plaintiff seek redress against men who have never seen him, who have not slandered him, who have committed no trespass, and all whose dealings have been with third persons only? This question is as applicable to the cases of a master suing for loss of a man or of the trader suing for loss of his customers as it is to the case of a servant suing for loss of a master. The old ideas of caste in business life evinced by such monuments as the Statute of Laborers have disappeared from the legal horizon. For that very reason master and man, being now upon the same level, must be held to the same standards. POWERS, J., in *State* v. *Stewart* (1887) 59 Vt. 273; BOWEN, L. J., in *Mogul S. S. Co.* v. *McGregor* (1889) 23 Q. B. D. 598. As the buying and selling of goods is in law a business to be protected from malicious blows dealt it from the outside with a view to its destruction (see, for the latest case, *Brown* v. *Jacobs Phar. Co.* (Ga. 1902) 41 S. E. 553), so, also, the buying and selling of labor is a business wherein each participant, be he master or man, is to be shielded from malicious interlopers. If a trading combination can be ruthlessly forced to justify